

STATE PERSONNEL BOARD TRIAL ADVOCACY PROGRAM



**JERRY SMITH
vs.
DEPARTMENT OF SUPPORT SERVICES**

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NOTICE OF ADVERSE ACTION

Jerry Smith
Building Maintenance Worker II
Capitol Park
Sacramento, California 95814

Social Security No.
XXX-XX-1234

You are hereby notified that, pursuant to Government Code Section 19574, adverse action is being taken against you as follows.

I

NATURE OF THE ACTION

You are hereby suspended for forty five (45) days from your position as a Building Maintenance Worker II with the Department of Support Services (Department or DSS).

II

EFFECTIVE DATE

This suspension shall be effective on April 15, 2015.

III

STATEMENT OF CAUSES

This adverse action is being taken against you for the causes set forth in the following subsections of Government Code Section 19572:

- (d) Inexcusable neglect of duty.
- (f) Dishonesty
- (t) Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the appointing power or the person's employment.

IV

CURRENT ASSIGNMENT AND RELEVANT DUTIES AND RESPONSIBILITIES

1. You began employment with DSS in 1993. Since May 1, 2011, you have held the position of Building Maintenance Worker II with the Physical Plant Management Unit for DSS. As a Building Maintenance Worker II, your responsibilities include performing the following tasks, among others:
 - Performing a variety of semiskilled manual tasks in the maintenance and repair of buildings and building facilities. This includes repairing building fixtures and equipment, including locks, windows, doors, screens, gutters, and drains; assisting in maintaining electrical lines and fixtures; lubricating, regulating, and repairing ventilation, cooling, and heating systems and related equipment; and replacing and repairing light fixtures.
 - Perform duties and operate equipment in a safe and efficient manner.

V

STATEMENT OF FACTS, ACTS OR OMISSIONS

This action is being taken against you for the following acts or omissions:

1. On or about February 22, 2015, you were involved in a single vehicle accident in which you fell out of a moving electric cart which proceeded to continue on without a driver and crash into a nearby University work truck causing damage estimated to be approximately \$2,700. Further, though you sustained injuries and damaged Department property (the electric cart and work truck); you left the site of the accident and failed to immediately report the accident to your supervisor or Physical Plant Management (PPM) administrators.

2. Your actions were witnessed by another PPM employee, Ms. Tracie Ramsey, Heavy Equipment Operator for PPM. On or about February 26, 2015, she was interviewed by Mr. Chuck Tobin, Staff Services Manager II for PPM. She related the following to Mr. Tobin: at approximately 6:50 a.m. on February 22nd she was by the

wash rack in the PPM grounds area when she saw you driving by in a cart. Ms. Ramsey saw that you had a cigarette in your mouth and a coffee cup in your left hand as you waved to her with your right hand. She waved back and turned away from you. The next thing she saw was you rolling on the ground as the cart continued moving forward. She saw you immediately jump up and run after the still moving cart. She saw the cart hit utility truck 41 then saw you get back in the cart, put it in reverse, and back up. She then observed you pick up some pieces of the cart that had broken off on impact and proceed to drive away in the cart. She wanted to see if you were alright but you left the scene at what she described as a very fast pace. Ms. Ramsey then called Physical Plant Management and informed an office technician that you had been in an accident.

3. At approximately 7:00 a.m. Mr. Tobin called you on your radio asking you to call him at the shop on a land line; it took you approximately 10-15 minutes to call him. When you did call Mr. Tobin, you failed to mention that you had damaged the electric cart and a utility truck nor did you mention that you had fallen out of the cart and injured yourself. You informed him that yes you were in an accident, however you simply stated, "I'm ok, just embarrassed." Mr. Tobin asked you to come to the shop to meet with him. It wasn't until approximately 7:30 a.m. that you went to Mr. Tobin's office. It was only when Mr. Tobin questioned you about the accident that you disclosed you fell out of the cart, injuring yourself, and damaged the cart and utility truck. Mr. Tobin subsequently sent you to a medical facility. You were treated for a sprained shoulder and a contusion on your elbow. The cart you were driving was taken out of service for an inspection to determine if there was a mechanical malfunction.

4. On or about February 26, 2015, Mr. Tobin contacted the Department of Police Services (DPS) to report the accident. Sergeant Frank Gordon responded to PPM that same morning to take the traffic collision report. According to the report, you related the following to Sgt. Gordon: you had a cup of coffee with you which you placed in the cup holder of the electric cart and drove out from the south of the PPM building. You proceeded westbound on the south roadway inside the PPM lot. You then made a right turn onto the northbound roadway and saw a sweeper truck backed up to the trash bin emptying out its contents. You passed the sweeper on the right side. As you waved, you felt the cart lose power, noticed that it was harder to steer, and it started bouncing. You stated that when you looked down at the steering console you saw that the digital screen read "negative twenty three (-23)." You indicated that you were traveling about two to four miles per hour. You then stated that you stepped on the

braked but it was not working. You believed that you could stop the cart with your foot by placing it outside of the cart. As you placed your left foot on the ground, it started to drag on the ground, pulling you out of the cart where you proceeded to fall to the ground. You attempted "tucking and rolling" but your left elbow and left shoulder struck the ground. You quickly got up and ran after the cart in an attempt to stop it. You saw the cart collide with the utility truck which was parked in a stall. You then got into the cart and drove to your next work assignment. You then stated that you contacted your supervisors a short while later and advised them of the accident. You stated that you did not think of contacting your supervisors immediately because you were "nervous and embarrassed." You then stated that when you drove the cart to your next work assignment you did not have any problems with the engine, brakes, or steering. You further stated that you were aware that the cart had a seatbelt but that you did not use it.

5. Sgt. Gordon interviewed Mr. Timothy Martin, Auto/Equipment Mechanic on February 27, 2015. Mr. Martin stated that he had just completed a safety inspection of the electric cart you were driving during the accident. Mr. Martin stated that he could not find anything wrong with the cart except for a bent tie rod. He further stated that once the tie rod is replaced, the cart was clear to go back into service.

6. On or about February 27, 2015, Sgt. Gordon interviewed Ms. Ramsey. She provided a similar statement to Sgt. Gordon as she had related to Mr. Tobin: on the morning of February 22nd she was emptying the sweeper in the trash bin located on the southwest corner of the PPM Yard. She saw that you had a cup of coffee in one hand, a cigarette in your mouth, and waved to her with your other hand as you passed her. When you passed a drainage ditch she saw you rolling on the ground. She then saw you get up and run after the cart in an attempt to catch it. She observed the cart collided with the utility truck, and then saw you get into the cart and drive off.

7. Sgt. Gordon stated in the police report that based on your statement as well as Ms. Ramey's and Mr. Martin's statements, and the physical evidence found during the investigation (collision damage, no brake markings at scene, and properly operating seatbelts), you were at fault for the collision by driving at a speed greater than was reasonable, endangering the safety of persons and property. He further stated that your inattention to roadway conditions/hazards was also a contributing factor to the traffic collision. Your unsafe driving of the electric cart was in direct violation of Department of Support Services Rules of Safe Operation of Powered Carts and Low-Speed Vehicles (LSV). Specifically, you failed to wear a seat belt while operating the cart and you failed to keep your

arms and legs inside the cart when you attempted to use your foot to stop the cart.

8. Your conduct has been highly improper and shows a lack of good judgment, personal responsibility, and honesty. You operated a Department vehicle in an unsafe manner, causing injury and damaging property; you attempted to avoid culpability by leaving the scene and failing to report the accident in a timely manner; and you were dishonest when you did not disclose the full details of the accident to Mr. Tobin and you blamed the accident on a faulty electrical cart. Misconduct of this nature is cause of great concern for the Department; your actions had the potential to cause serious injury or death and pose a risk to the safety of employees, and the community that we serve. You were dishonest in your account of events and manner of conduct during your interviews in an attempt to divert and/or absolve yourself of culpability, notwithstanding your duty to cooperate and be truthful when asked about the incident. Further, your attempts to avoid blame subsequent to the accident demonstrate your clear understanding that what you did was wrong. As an employee in service to the Department you are expected to perform your duties with the utmost competency, professionalism, and integrity.

VI

APPEAL RIGHTS

1. Right to respond to appointing power.

You are entitled to at least five (5) working days within which to respond to this notice. You may respond orally or in writing prior to April 15, 2015, which is the effective date of this action. If you wish to respond you may do so to:

Elizabeth White
Manager of Resources
Department of Support Services
801 Capitol Mall
Sacramento, CA 95814
(916) 555-1373

Pursuant to California Code of Regulations, title 2, section 52.6, you are entitled to a reasonable amount of State time to prepare your response to the charges. You are not entitled to a formal hearing with examination of witnesses at this stage of the proceedings. However, you may be represented by another in presenting your response. The appointing

power may sustain, amend, modify, or revoke the adverse action in whole or in part.

2. Right to Appeal to the State Personnel Board.

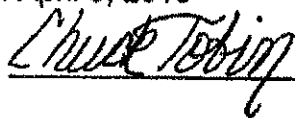
Regardless of whether you respond to these charges to the appointing power, you are advised that you have the right to file a written answer to this notice with the State Personnel Board, 801 Capitol Mall, Sacramento, California 95814, not later than thirty (30) calendar days after the effective date of this action. An answer shall be deemed to be a request for hearing or investigation as provided in Section 19575 of the Government Code. If you answer as provided, the Board or its authorized representative shall, within a reasonable time, hold a hearing and shall notify the parties of the time and place thereof. If you fail to answer within the time specified, the adverse action taken by the appointing power shall become final.

You are responsible for notifying the State Personnel Board and your appointing power of any changes in your address that occur after the effective date of this adverse action.

3. Right to Inspect Documents.

Pursuant to Government Code section 19574.1, copies of any documents or other materials giving rise to this adverse action are attached for your inspection.

Dated: April 8, 2015

_____

STATE PERSONNEL BOARD APPEAL/COMPLAINT FORM

SPB USE ONLY

GENERAL INSTRUCTIONS: All appeals and complaints must be in writing. Most appeals and all complaints must clearly identify the facts that form the basis for an appeal or a complaint, all known parties, and specify the remedy or relief requested. Failure to identify the factual basis for an appeal/complaint subject to this requirement may result in the matter being rejected by the Appeals Division. Further, the appellant or complainant should include a copy of the determination or action that is the subject of the appeal or complaint. The Appeal Form must be received by the Appeals Division of SPB within the applicable time lines for the specific type of appeal or complaint as outlined in the California Code of Regulations, title 2, section 52.4.

Please complete all applicable items on this form in the sections below. **DO NOT** include your Social Security Number anywhere on this form. Multiple appeals or complaints require multiple forms.

APPELLANT

Name (Last, First Middle Initial) Smith, Jerry			
Mailing Address (Number) 855 L Street		E-Mail Address jsmith@comcast.com	
(City) Sacramento	(State) CA	(Zip Code) 95814	
Phone (Home)		(Work)	(Cell) 916-555-1234

REPRESENTATION (If applicable)

Name (Last, First Middle Initial)		Phone (Work)	
Law Firm or Union		Fax	
Mailing Address (Number) (Street)		E-Mail Address	
(City)	(State)	(Zip Code)	

EMPLOYMENT/DEPARTMENT/AGENCY INFORMATION

Name of the Classification/Title you are appealing Building Maintenance Worker II			
Department/Agency Dept. of Support Services		Fax	
Contact (if known)		Phone (Work)	
Mailing Address (Number) (Street) 801 Capitol Mall		E-Mail Address	
(City) Sacramento	(State) CA	(Zip Code) 95814	

TYPE OF APPEAL/COMPLAINT: (CHECK ONLY ONE)

<input checked="" type="checkbox"/> Adverse Action/Disciplinary Action	<input type="checkbox"/> Request to File Charges
<input type="checkbox"/> Constructive Medical Termination	<input type="checkbox"/> Termination of Limited Examination and Appointment Program
<input type="checkbox"/> Discrimination Complaint (Includes Harassment, Retaliation & Denial of Reasonable Accommodation)	<input type="checkbox"/> Termination/Automatic Resignation of Permanent Intermittent Employee
<input type="checkbox"/> Dismissed Employee's Denial to Take Civil Service Examination	<input type="checkbox"/> Termination of Career Executive Assignment (CEA) Appointment
<input type="checkbox"/> Examination (Includes Minimum Qualifications & Out-of-Class claims)	<input type="checkbox"/> Voided Appointment
<input type="checkbox"/> Lesser Adverse Action	<input type="checkbox"/> Whistleblower Retaliation Complaint
<input type="checkbox"/> Medical Termination/Demotion/Transfer	<input type="checkbox"/> Withhold From Certification
<input type="checkbox"/> Merit Issue Complaint	
<input type="checkbox"/> Nonpunitive Termination/Demotion/Transfer (License Revocation/Restriction)	<input type="checkbox"/> California State University (CSU) Appeal
<input type="checkbox"/> Pre-Employment Medical/Psychological Disqualification or Drug-Test Failure	<input type="checkbox"/> Appeal from Counties without Approved Merit System
<input type="checkbox"/> Rejection During Probationary Period	

SPB APPEAL/COMPLAINT FORM

PAGE 2

REASON(S) FOR APPEAL/COMPLAINT:

I disagree with and appeal the Department/Agency Decision/Action dated: April 15, 2015

MY REASONS ARE AS FOLLOWS (attach additional pages as needed):

1. I believe the disciplinary action taken to be unreasonable, excessive, and unwarranted. This is supported by the Skelly Officer.
2. My supervisor was motivated to take action against me for improper and non-work related reasons. He has harassed me and discriminated against me for many years because I am a Pittsburgh Steeler fan. He is a huge Seattle Seahawks fan and has never forgotten or forgiven the fact that the Steelers beat his pathetic Seahawks in 2006.

☐ Additional Page(s) attached.

Please Note: Further information concerning the types of appeals and complaints as well as related time frames for filing is available in the **Appeals Resource Guide** which may be accessed at www.spb.ca.gov. To avoid delay in processing of your appeal, please enclose a copy of the notice, action or response you received from the department/agency involved.

Appeals/Complaints and supporting documentation should be filed by email (appeals@spb.ca.gov), but can also be mailed, personally delivered or sent by facsimile transmission (fax) to:

State Personnel Board
Attn: Appeals Division
801 Capitol Mall, MS #22
Sacramento, California 95814
FAX: (916) 654-6055


SIGNATURE OF APPELLANT/REPRESENTATIVE

15-01-15
DATED

Department of Support Services

MEMORANDUM

DATE: April 14, 2015

TO: Scott McCarron,
Chief Administrator

FROM: 
Elizabeth White,
Manager of Resources

SUBJECT: PENDING DISCIPLINARY ACTION- JERRY SMITH

As the appointed Skelly Review Officer for the disciplinary action pending for Jerry Smith, I am submitting the following report:

My report and recommendation is based on my review of the Notice of Adverse Action with enclosures and my meeting with Mr. Smith and his union representative, Carl Kimber on April 13, 2015.

The proposal to suspend Mr. White for 20 days without pay is based on a determination that he demonstrated inexcusable neglect of duty, dishonesty, and other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the appointing power or the person's employment and failure to perform the normal and reasonable duties of his position.

I do not find support for these findings. Instead, Mr. White made bad choices and demonstrated poor judgment.

It is clear from the information, and Mr. Smith's accounting, that he was partially at fault for the accident. By his own admission, the cart was having mechanical problems prior to the accident. He was not wearing a seatbelt, he attempted to use his foot to stop the vehicle, and he may have inadvertently stepped on the gas instead of the brake. Mr. Smith clearly made several bad decisions resulting in injury to him, damage to Department property, and potential danger to others.

After the accident, Mr. Smith used poor judgment when he got back into the malfunctioning cart and did not immediately report the incident to his supervisor.

When I met with Mr. Smith, he stated that he had been shaken up and embarrassed by the accident. He needed time to recover for a few minutes. He said he called his wife

because he was shaken and upset and not to avoid blame. As noted, Mr. Smith did meet with Mr. Tobin approx. 40 minutes after the accident and on subsequent days with Police Services and Mr. Wang to recount the details of the incident.

During my meeting with Mr. Smith, he said that he had one hand on the steering wheel at all times in contradiction to Ms. Ramsey's statements to Mr. Tobin and Police Services. When I asked if he wore a seatbelt, he said he had not and that this was not a rule that was generally followed or enforced in the department prior to his incident. He also provided me with a document asserting his position that there was something mechanically wrong with the cart the day of the incident as well as on previous occasions. He stated that he reported these concerns to his supervisor and PPM's automotive repair department.

The information related to the incident on February 22, 2015 noted in the collective documents and confirmed in my meeting with Mr. Smith, does not indicate inexcusable neglect of duty, dishonesty, and other failure of good behavior.

It is possible that someone involved in an accident like this resulting in personal injury, collateral damage, and potential safety risk to others might be shaken and reach out to loved ones. Due to embarrassment he or she may need coaxing when endeavoring to recount all of the details.

There is no information presented that indicates that Mr. Smith has had previous performance issues regarding inexcusable neglect of duty, honesty, or other failure of good behavior would justify the severity of the proposed sanction.

However, due to the serious consequences of his poor choices and lapse in judgment, I recommend that Mr. Smith receive a letter of reprimand and be required to retake the Defensive Driver Course training.

Enclosure

Investigative Summary of Jerry Smith

Jerry Smith began his employment with the Department of Support Services (DSS) as a Custodian in 1993. Since May 1, 2011, he has held the position of Building Maintenance Worker II in the Physical Plant Management (PPM) unit. He has no prior discipline and has received positive performance reviews. In January 2013, Mr. Smith received a counseling memorandum for using his personal cell phone during working hours in violation of policy.

On February 22, 2015, at approximately 6:30 a.m., Mr. Smith was dispatched to the Art and Design building in response to a service call. He entered his assigned GEM electric cart through the driver's side. He does not recall whether he buckled his seat belt. However, he states that it is his practice to do so. He then placed his coffee mug in the cup holder on the driver's side front dashboard. Mr. Smith then drove the GEM cart, proceeding toward the Art and Design building.

Mr. Smith made a 90 degree right turn onto the northbound road and saw a sweeper backed up to the trash bin and emptying its contents. Mr. Smith steered the GEM cart around the sweeper. As he passed the front of the sweeper, he noticed that his co-worker, Tracie Ramsey (Ramsey), was the driver and waved to her with his right hand. Ms. Ramsey saw Mr. Smith and then returned her attention to her task. A moment later, the GEM cart suddenly began to jerk and lose power. Mr. Smith tried to turn the steering wheel, but it was locked. Next, Mr. Smith stepped down on the brake pedal but the brakes did not respond. Mr. Smith then placed his left foot on the asphalt to try to stop the cart. However, the dragging of his foot on the ground caused him to be thrown from the cart. Mr. Smith rolled onto the ground, injuring his left shoulder and elbow.

The GEM cart continued to travel in a forward direction without a driver. Mr. Smith stood up and chased after the GEM cart, but could not catch up with it. The GEM cart collided with a parked DSS work truck, causing the hood of the GEM cart to fly open and a fiberglass pane on the cart to fall off. The collision also resulted in damage to the truck estimated at \$2,700. Mr. Smith was shaken up and embarrassed. He walked to the cart, closed the hood, and picked up the fiberglass pane from the ground. Mr. Smith then got back into the GEM cart and turned the ignition. After it started, he drove off in the cart.

After leaving the scene of the accident, Mr. Smith drove the GEM cart to the Art and Design building and completed the service call. Using his personal cell phone, Mr. Smith then called his wife and told her about the accident. Mr. Smith's wife told him to call his supervisor to report it. While he was still on the phone with his wife,

Mr. Smith heard his supervisor, C. Tobin (Tobin), call him on the work radio regarding the accident. Mr. Smith ended the phone call with his wife and reported to Tobin's office at approximately 7:30 a.m.

Tobin asked Mr. Smith what happened. Mr. Smith stated that the GEM cart had malfunctioned and he couldn't stop the cart. Mr. Smith asked if he needed to write a report regarding the incident. Tobin said that he did. Tobin asked Mr. Smith several times if he was ok, then directed Mr. Smith to report to the University's medical facility for an examination.

After the meeting, Mr. Smith visited a medical facility where he was treated for his injuries. Mr. Smith was released from work for the remainder of the work day and approved to return to work on the following day, February 23, 2015.

Mr. Smith made the following statements:

"I try to have fun every day. Why not have fun at work?"

"I always wear my seat belt. It's the first thing I do when I get into a vehicle"

"I like coffee. I take it everywhere with me."

"You bet, I'll have a drink of coffee while I'm driving. That's no big deal."

Interview conducted by Sergeant Frank Gordon on February 26, 2015.

Investigative Summary of Chuck Tobin

Mr. Tobin has worked for the Department of Support Services for 25 years. For the last eight years, he has worked as a Staff Services Manager II in the Physical Plant Management Unit. He is responsible for the personnel that take care of the grounds and custodial functions, as well as the various trades that take care of day-to-day operations for state buildings in downtown Sacramento.

Jerry Smith works for the Building Maintenance Shop within Physical Plant Management. Mr. Smith is primarily responsible for preventative maintenance tasks. These tasks include filter changes, belt changes, and basic maintenance on heating, ventilation, and air conditioning systems. He is also responsible for maintaining lighting within the various state buildings. Mr. Smith will also respond to emergency maintenance calls and may be assigned to work with other staff on projects related to Physical Plant work within state buildings. Mr. Smith is expected to perform these duties in a safe and efficient manner. This includes the operation of any vehicle while on duty. To assist Mr. Smith and others in performing their duties in a safe manner, they attend various safety training classes. This includes a driver safety program. The driver safety program provides all participants a hard copy of the department's Safe Driving Policy. Before conducting this interview, Mr. Tobin confirmed that Mr. Smith had taken the class and received the policy on August 8, 2013.

Sometime after 6:45 a.m. on February 22, 2015, Mr. Tobin was informed that one of his employees was involved in an accident. He had a suspicion that it might be Jerry Smith. At approximately 7:00 a.m. Mr. Tobin called Mr. Smith on the radio asking for him you to call the shop on a land line. It took approximately 10-15 minutes to hear back from Mr. Smith. When Mr. Smith reached Mr. Tobin, he indicated that he had been in an accident but simply stated, "I'm ok, just embarrassed." During the call, Mr. Smith failed to mention that he had caused damage to the GEM cart and a utility truck nor did he mention that he had fallen out of the GEM cart and injured himself. Mr. Tobin asked him to come to the shop to meet with him. At approximately 7:30 a.m., Mr. Smith arrived at Mr. Tobin's office. Only when Mr. Tobin questioned the details of the accident did Mr. Smith disclose he had fallen out of the GEM cart, injured himself, and damaged the GEM cart and utility truck.

When questioned further about the accident, Mr. Smith told Mr. Tobin the following:

Mr. Smith had a cup of coffee with him which he placed in the cup holder of the GEM cart. He proceeded westbound on the south roadway inside the PPM lot. He then made a right turn onto the northbound roadway and saw a sweeper truck backed up to

the trash bin emptying out its contents. As he passed the sweeper he waved to Tracie Ramsey, who was operating the sweeper. He then felt the GEM cart lose power, noticed that it was harder to steer, and that it started bouncing. He indicated that he looked down at the steering console and saw that the digital screen read "negative twenty three (-23)." He said he was only traveling about two to four miles per hour. When he tried to brake the vehicle it was not working. For some "foolish reason," he thought he could stop the GEM cart with his foot by placing it outside of the GEM cart. When he put his left foot on the ground, it started to drag and then pulled him out of the GEM cart causing him to fall to the ground. Mr. Smith attempted to "tuck and roll" but his left elbow and left shoulder struck the ground. He quickly got up and ran after the GEM cart in an attempt to stop it. The GEM cart collided with the utility truck which was parked in a stall. He got to the GEM cart, got in and drove to his work assignment. He stated that he did not think of contacting his supervisors immediately because he was "nervous and embarrassed." He stated that while driving to his next work assignment he did not have any problems with the engine, brakes, or steering. He mentioned that he did not use the seatbelt.

Mr. Tobin sent Mr. Smith to a medical facility where he was treated for a sprained shoulder and a contusion to his elbow. The GEM cart was taken out of service for an inspection to determine if there was a mechanical malfunction.

Mr. Tobin also interviewed Tracie Ramsey. Ms. Ramsey told Mr. Tobin that Mr. Smith had waved to her with one hand while holding a cup of coffee in his other hand. However, Ms. Ramsey did not actually see Mr. Smith fall out of the vehicle but only saw him on the ground after which he chased after the GEM cart. She saw the GEM cart struck a department utility truck. Mr. Smith got into the GEM cart and drove off.

Mr. Tobin made the following statements:

"Just like a Steeler's fan to do something so boneheaded."

"Jerry think's he is so funny."

"I remember 2006. That was a terrible year. I was depressed all year long."

Interview conducted by Sergeant Frank Gordon on February 26, 2015.

Investigative Summary of Tracie Ramsey

Ms. Ramsey has worked for the Department of Support Services for thirteen years. She has been a Heavy Equipment Operator the entire time. Her primary responsibility is to sweep all roads surrounding the State Capitol and surrounding state buildings as well as parking structures using a street sweeper.

Ms. Ramsey has known Mr. Smith since 2001 when he joined Physical Plant Management. They do not socialize outside of work, but she considers him a friend during work hours. They will occasionally take their lunch break together.

On February 22, 2015 shortly after 6:00 am, Ms. Ramsey drove the assigned sweeper out of the equipment yard. She drove the vehicle to a nearby dumpster and parked in front of it. She began the process of emptying the contents from the day before starting her normal route for sweeping streets and parking structures.

While she was emptying the sweeper, she observed Mr. Smith drive a GEM cart around the sweeper. She states that she first observed Mr. Smith driving along the right side of the sweeper. He proceeded to wave to her and then turned the GEM cart left to proceed in front of her sweeper and down the road. She does not recall whether Mr. Smith had one hand on the steering wheel or not. After he waved, she focused her attention on emptying the sweeper. She looked up a moment later and saw Mr. Smith outside of the cart and rolling on the ground. Ms. Ramsey then witnessed Mr. Smith stand up and chase the GEM cart. The GEM cart had run into a Department truck and caused some damage to both vehicles. Mr. Smith picked up a fiberglass panel, climbed back into the GEM cart, and then drove off.

She was concerned about Mr. Smith and called to report the accident at Physical Plant Management. She does not recall who she spoke to when she reported the accident.

Ms. Ramsey made the following statements:

"I try to go to lunch with Jerry every chance I get. He is a very, funny guy."

"Sometimes I think Mr. Tobin is not very, nice to Jerry."

"Jerry really knows his sports. Especially football and the Steelers."

Interview conducted by Sergeant Frank Gordon on February 26, 2015.

Investigative Summary of Timothy Martin

Mr. Martin has worked as an automobile mechanic for over 20 years. He is certified by the National Institute of Automotive Service Excellence as a Master Auto Technician with advance engine performance certification. He received this certification nearly 20 years ago and recertifies every five years. For the last five years, he has been certified as a Master GEM Technician.

Mr. Martin has worked for the Department of Support Services for the past 11 years in the classification of Auto Equipment Mechanic. In this position, he maintains and services vehicles and equipment, including the GEM (Global Electric Motorcar) electric cart. Mr. Martin primarily works on GEM electric carts. Upon completion of any service performed on a vehicle, Mr. Martin operates the vehicle to ensure that the vehicle is safe and the repairs are complete. Mr. Martin operates a GEM electric cart approximately three out of every four workdays.

On February 26, 2015, Mr. Martin was informed that a GEM electric cart operated by Jerry Smith was involved in an accident. He was asked to inspect and service the vehicle. Mr. Martin has no knowledge of how the vehicle arrived at the shop and whether the vehicle was securely locked from being accessed by any other mechanic between the date of the accident until his inspection. He is aware that the vehicle was stored inside the shop which is locked during non-business hours.

Mr. Martin began his inspection of the vehicle at 10:30 am on February 26, 2015. He went to lunch at 11:30 am and resumed his inspection at 12:30 am. Mr. Martin observed that the front fiberglass cowl was no longer attached to the vehicle and instead was on the ground next to the vehicle with a large crack running through the middle and various scratches in the paint. No other signs of damage to the body were evident.

Mr. Martin then turned the ignition switch on to check for codes on the LCD Display Indicator. No codes appeared. Mr. Martin was informed that the operator of the cart had indicated a -23 had appeared on the panel prior to the accident. According to manufacturer's specifications, -23 indicates that the battery system is overcharged. An overcharge condition may adversely affect all electrical systems on the vehicle. Mr. Martin has never observed a -23 on any vehicle he has serviced.

Mr. Martin then checked the mechanical systems for the vehicle. He found that the brake system and the steering system were both operable. He then drove the

vehicle for approximately two blocks and then returned to the shop. He noted that the steering pulled slightly to the right. All other systems worked properly. Upon his return to the shop, he jacked up the front of the vehicle and noted that a tie rod was bent. He presumed that the bent tie rod occurred because of the accident. Mr. Martin placed an order for a new front cowling and a replacement tie rod. The parts should arrive in approximately 10 days and will be installed that same day. Other than the tie rod, the GEM electric cart can be placed back into use without any other repairs being performed.

Mr. Martin made the following statements:

"I really hate fixing these vehicles just so some knucklehead can take it out and damage it."

"I know who Jerry Smith is, but I don't socialize with him. I have heard him tell jokes and talk football, but Mr. Tobin would just seem to show up and tell Jerry to get to work."

Interview conducted by Sergeant Frank Gordon on February 27, 2015.

DEPARTMENT OF SUPPORT SERVICES

Safe Driving Policy

Date: January 2, 2001

Objectives of the policy

- To ensure that staff who drive vehicles in the course of their work demonstrate safe, efficient driving skills and other good road safety habits at all times.
- To maintain all company vehicles in a safe, clean and roadworthy condition to ensure the maximum safety of the drivers, occupants and other road users, and reduce the impacts of company vehicles on the environment – this also applies to personal vehicles used for work purposes.

Code of conduct

The code of conduct for the Department of Support Services states that: "While driving department vehicles or one's own vehicle for work purposes, staff must comply with traffic laws, be conscious of road safety and demonstrate safe driving and other good road safety habits".

The following actions in department vehicles will be viewed as serious breaches of conduct and dismissal may be a consequence:

- drinking or being under the influence of drugs while driving
- driving while disqualified or not correctly licensed
- reckless or dangerous driving causing death or injury
- failing to stop after a crash
- acquiring demerit points leading to suspension of licence
- any actions that warrant the suspension of a licence.

Responsibilities as an employee

Every driver of a department vehicle will:

- ensure they hold a current driver licence for the class of vehicle they are driving and this licence is carried when driving a company vehicle
- immediately notify their supervisor or manager if their driver licence has been suspended or cancelled, or has had limitations placed upon it
- be responsible and accountable for their actions when operating a department vehicle or driving for the purposes of work
- comply with traffic legislation when driving
- assess hazards while driving and anticipate 'what if' scenarios

- drive within the legal speed limits, including driving to the conditions
- wear a safety belt at all times
- never drive under the influence of alcohol or drugs, including prescription and over the counter medication if they cause drowsiness – to do so will merit disciplinary measures
- avoid distraction when driving – the driver will adjust car stereos/mirrors etc before setting off, or pull over safely in order to do so
- report any near-hits, crashes and scrapes to their manager, including those that do not result in injury
- report vehicle defects to a manager before the next vehicle use.

Responsibilities as an employer

The department will take all steps to ensure department vehicles are as safe as possible and will not require staff to drive under conditions that are unsafe and/or likely to create an unsafe environment, physical distress, fatigue, etc.

The department will do this by undertaking the following tasks:

Ensuring all vehicles are well maintained and that the equipment promotes driver, operator and passenger safety by:

- servicing the vehicles according to manufacturers' recommendations
- setting up procedures where employees check vehicles' oil, water, tyre pressures and general cleanliness on a monthly basis, then record the inspections
- keeping maintenance schedules in the glove boxes of all vehicles, which are completed each time the vehicles are serviced in any way
- following the maintenance schedules in the vehicles' manuals
- setting up a procedure to identify and rectify faults as soon as practicable.

Identifying driver training needs and arranging appropriate training or retraining, including providing:

- a thorough induction to the company's road safety policies and procedures
- driver training opportunities to all staff.

Billing Date: 02/28/15 Page 1 of 2
Telephone Number: (916) 555-1234
Company Account Number: 555555

Department of Support Services
Assigned: Jerry Smith

Account Summary:

Previous Charges	45.00
Payment Received	45.00
Balance 01/31/15	00.00
<hr/>	
New Charges (02/01/15-02/28/15)	101.25
See (page 2) for Itemization	
Total New Charges Due Mar 30, 2015	101.25
<hr/>	
To avoid a late payment charge, payment Must be received before Apr 3, 2015	
Total Due	101.25

Mail Payments To:
Verizon, PO Box 920041, Dallas TX 75392

Detach & return payment slip with your check, payable to Verizon

Account: 555555
Telephone Number: (916) 555-1234
New Charges Due: Mar 30, 2015
Due: 101.25

Department of Support Services
XXX Capitol
Sacramento, CA 95814

Verizon
PO Box 920041
Dallas, TX 75392

Billing Date: 02/28/15 Page 2 of 2
Telephone Number: (916) 555-1234
Company Account Number: 555555

Summary for Jerry Smith

Monthly Plan & Usage (02/01/15-02/28/15)

Monthly Plan: 25.00

Usage: 76.25

Total Due: 101.25

Details for Jerry Smith: (916) 555-1234

Voice

Date	Time	No.	Destination	Min.	Charges	Long Dist	Total
02/02	9:00A	916-555-6666	Rocklin CA	05	2.00	no	02.00
02/02	10:15a	916-553-0000	Sacramento	03	1.00	no	01.00
02/03	8:30A	415-555-1237	Berkley CA	10	4.50	yes	04.50
02/05	9:30A	916-555-6666	Rocklin CA	20	5.00	no	02.50
02/06	2:30P	707-666-1234	Dixon CA	06	9.00	yes	09.00
02/09	1:54P	707-635-4455	Vacaville CA	07	.50	yes	00.50
02/10	8:10A	303-333-1621	San Jose CA	03	4.50	yes	04.50
02/11	4:00P	213-222-2222	LA CA	05	6.00	yes	06.00
02/11	4:15P	415-333-1122	Berkley CA	03	1.00	yes	01.00
02/11	5:03P	415-333-1122	Berkley CA	02	1.00	yes	01.00
02/13	2:00P	213-222-2222	LA CA	10	12.50	yes	12.50
02/17	1:15P	909-333-1111	Ontario CA	15	18.25	yes	18.25
02/18	8:23A	707-666-1234	Dixon CA	01	1.00	yes	01.00
02/19	7:13A	916-555-1234	Sacramento	01	-0-	no	-0-
02/22	7:10A	916-555-1234	Sacramento	01	-0-	no	-0-
02/22	7:20A	916-222-7777	Sacramento	03	1.00	no	01.00
02/22	8:15A	916-555-6666	Rocklin CA	20	5.00	yes	5.00
02/23	9:10A	707-635-4455	Vacaville CA	05	.25	yes	.25
02/24	11:00a	212-222-5599	Auburn CA	03	1.25	yes	1.25
02/25	3:30P	303-333-1621	San Jose CA	02	4.00	yes	04.00
02/26	2:50P	916-555-1234	Sacramento	01	-0-	no	-0-
02/26	3:00P	916-222-7777	Sacramento	10	1.00	no	1.00



2015 Owner's Manual for Maintenance and Safety

Read this manual carefully.
It contains important safety information.

FEATURES AND CONTROLS

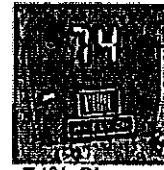
Console

LCD Display Indicator

Speedometer/Service Code/Charge Display Indicator

When driving, the speedometer displays vehicle speed in either miles per hour (MPH) or kilometers per hour (km/h). The display can be changed to display either standard or metric units of measurement. See page 38.

When the batteries are charging, this area displays the percent of charge. When the service indicator illuminates, a service code displays in this area.



74% Charge

FEATURES AND CONTROLS

Console

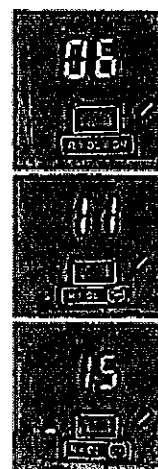
LCD Display Indicators

Speedometer/Service Code/Charge Display Indicator

Common service codes are detailed below.

Code	Condition	Remedy
06	Accelerator pedal is depressed, no direction is selected.	Release pedal, apply brakes, make sure direction switch is locked into a position.
11	Accelerator pedal was depressed before key was	Turn key off, release accelerator pedal, then turn key
15	low state of charge on batteries.	Charge batteries before operating.
16	High state of charge on batteries.	Turn headlights on for several minutes, then turn the key switch off and on.

Tip: If any other codes display, contact your authorized GEM dealer or call GEM customer service.



STATE OF CALIFORNIA — DEPARTMENT OF PERSONNEL ADMINISTRATION
INDIVIDUAL DEVELOPMENT PLAN
 FOR FUTURE JOB PERFORMANCE OF PERMANENT EMPLOYEES

STD. 637 (REV. 7-94c)

EMPLOYEE NAME (Last, First, Middle Initial) Jerry Smith		DATE OF THIS PERFORMANCE DISCUSSION April 25, 2014	
CIVIL SERVICE TITLE Building Maintenance Worker II		POSITION NUMBER 999-1234-001	LAST PERFORMANCE DISCUSSION DATE April 30, 2013
STATE DEPARTMENT NAME Department of Support Services		DEPARTMENT SUBDIVISION Physical Plant Management	EMPLOYEE'S HEADQUARTERS Sacramento, CA

PERFORMANCE OBJECTIVES — Goals for further improvements in job performance during the next year in order to meet or exceed standards for the employee's present job or to develop employee skills.

PLANS FOR ACHIEVING OBJECTIVES — Specific methods by which the employee can work toward accomplishing his or her performance objectives (in-service training courses, college courses, rotation, special work assignments for training purposes, etc.).

I HAVE PARTICIPATED IN A DISCUSSION OF OVER-ALL JOB PERFORMANCE

EMPLOYEE'S SIGNATURE 	DATE SIGNED 24.25.14	SUPERVISOR'S SIGNATURE 	DATE SIGNED 24.25.14
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(Over)

STATE OF CALIFORNIA -- DEPARTMENT OF PERSONNEL ADMINISTRATION
PERFORMANCE APPRAISAL SUMMARY
 OF PAST JOB PERFORMANCE OF PERMANENT EMPLOYEES

STD. 637 (REV. 7-94) (REVERSE)

PERFORMANCE FACTORS	I	M	E	COMMENTS*
1. QUALITY OF WORK: Consider the extent to which completed work is accurate, neat, well-organized, thorough, and effective.		✓		Jerry is standard.
2. QUANTITY OF WORK: Consider the extent to which the amount of work produced compares to quality standards for the job.		✓		Jerry is standard.
3. WORK HABITS: Consider the employee's effectiveness in organizing and using work tools and time, in caring for equipment and materials, in following good practices of vehicle and personal safety, etc.			✓	
4. RELATIONSHIPS WITH PEOPLE: Consider the extent to which the employee recognizes the needs and desires of other people, treats others with respect and courtesy, and inspires their respect and confidence, etc.		✓		Jerry would produce more work, but he talks sports too often. Football season is the worst.
5. TAKING ACTION INDEPENDENTLY: Consider the extent to which the employee shows initiative in making work improvements, identifying and correcting errors, initiating work activities, etc.		✓		Jerry is standard.
6. MEETING WORK COMMITMENTS: Consider the extent to which the employee completes work assignments, meets deadlines, follows established policies and procedures, etc.		✓		Jerry is standard.
7. ANALYZING SITUATIONS AND MATERIALS: Consider the extent to which the employee applies consistently good judgment in analyzing work situations and materials, and in drawing sound conclusions.			✓	
8. SUPERVISING THE WORK OF OTHERS: Consider the employee's effectiveness in planning and controlling work activities, motivating and developing subordinates, improving work methods and results, encouraging and supporting employee suggestions for work improvement, applying policies, selecting and developing subordinates in accordance with State Personnel Board and departmental affirmative action policies.				
9. PERSONNEL MANAGEMENT PRACTICES: Consider the extent to which the employee understands and applies good personnel management practices including affirmative action and upward mobility. Does the employee contribute effectively to the implementation of State Personnel Board and departmental equal employment opportunity policies and to the attainment of affirmative action goals?				

GENERAL COMMENTS OR COMMENTS ON OTHER FACTORS

Jerry's work is satisfactory.

*The supervisor may make "comments" only, or may use rating categories only, or may use either or both methods of appraisal on any performance factor, as he or she prefers. The rating categories are:

- I - Improvement needed for performance to meet expected standards
- M - Performance fully meets expected standards
- E - Performance consistently exceeds expected standards

SUPERVISOR CERTIFICATE OF SALARY ADJUSTMENT

SOCIAL SECURITY

NUMBER
xxx-xx-1234

EMPLOYEE NAME
Jerry Smith

POSITION NUMBER
999-1234-001

ANNIVERSARY DATE
May 1, 2014

IN MY JUDGMENT, THE EMPLOYEES JOB PERFORMANCE

 X **MEETS THE LEVEL OF QUALITY AND QUANTITY EXPECTED BY THE AGENCY AT HIS STAGE OF AN EMPLOYEES EXPERIENCE IN THE POSITION AND THEREFORE, I RECOMMEND THAT THE EMPLOYEE BE GRANTED A MERIT SALARY ADJUSTMENT.**

 DOES NOT MEET THE LEVEL OF QUALITY AND QUANTITY EXPECTED BY THE AGENCY AT THIS STAGE OF AN EMPLOYEES EXPERIENCE IN THE POSITION AND THEREFORE, I RECOMMEND THAT THE EMPLOYEE NOT BE GRANTED A MERIT SALARY ADJUSTMENT AT THIS TIME. I HAVE ALSO INFORMED THE EMPLOYEE ON THIS DATE _____ SEE ATTACHED STATEMENT.

Kevin T. Smith
SIGNATURE OF SUPERVISOR

04-21-14
DATE

Staff Services Manager II
TITLE



